

MINUTES

MEETING OF THE BOARD OF EXAMINERS

November 8, 2011

The Board of Examiners met on November 8, 2011, in the Annex on the second floor of the Capitol Building, 101 N. Carson St., Carson City, Nevada, at 10:00 a.m. Present were:

Members:

Governor Brian Sandoval
Secretary of State Ross Miller
Clerk Jeff Mohlenkamp

Others Present:

Katherine Yonkers, Department of Employment, Training and Rehabilitation
Janet Lufrano, Department of Employment, Training and Rehabilitation
Keith Wells, Department of Administration, Motor Pool
Patrick Cates, Department of Wildlife
Shelley Blotter, Department of Administration, Human Resource Management
Carrie Hughes, Department of Administration, Human Resource Management
Robert Halstead, Nuclear Projects
Johnean Morrison, Department of Public Safety, Highway Patrol
Jennifer Bauer, Department of Public Safety
Clark Leslie, Attorney General's Office
William Chisel, Department of Taxation
Brody Leiser, Department of Taxation
Kent Robison, UNR
Lynn Carrigan, Department of Health and Human Services, Health Care, Financing and Policy
Greg Cox, Department of Corrections
Wendy Simons, Department of Health and Human Services, Health Division
Melanie Young, Department of Public Safety, Records and Technology
Dennis Pinkerton, Department of Public Safety, State Fire Marshal
Brenda Berry, Department of Health and Human Services, Aging and Disability Services Division
Dave Prather, Department of Health and Human Services, Mental Health and Developmental Services
John Whaley, Department of Health and Human Services, Health Care, Financing and Policy
Mike Chapman, Department of Transportation
Joe Ward, UNR
Luana Ritch, Department of Health and Human Services, Health Division
Lori Myer, Department of Business and Industry, Industrial Relations
Brenda Ford, Department of Employment, Training and Rehabilitation
Deborah Reed, Department of Corrections
Dawn Rosenberg, Department of Corrections
Marta Adams, Attorney General's Office

Katie Armstrong, Attorney General's Office
Mark Winebarger, Treasurer's Office
David Gustofson, Department of Administration, Enterprises Information Technology
Teri Preston, Department of Administration
Margene Stenger, Commission on Economic Development
Patrick Conmay, Department of Public Safety, Records and Technology
Sue Smith, Department of Health and Human Services, Welfare and Supportive Services
Phil Weyrick, Department Health and Human Services, Health Division
Jack Zenteno, Department of Health and Human Services, Welfare and Supportive Services
Romaine Gilliland, Department of Health and Human Services, Welfare and Supportive Services
Jane Splean, Department of Education
Tamara Nash, Department of Employment, Training and Rehabilitation
Mike Torvinen, Department of Health and Human Services
Greg Weyland, Department of Education
Cindy Jones, Department of Administration, Budget Division
Dennis Gallagher, Attorney General's Office

PRESS

Sean Whaley, Nevada News Bureau
Sandy Briggs, Associated Press
Ed Vogel, Las Vegas Review Journal
Cy Ryan, Las Vegas Sun
Geoff Dornan, Nevada Appeal

1. PUBLIC COMMENTS

Comments:

Governor: Good morning ladies and gentlemen. I'd like to call the Board of Examiners meeting to order. Mr. Secretary, you're present in Las Vegas?

Secretary of State: Yes, Governor.

Governor: And I understand that the Attorney General will not be present for this meeting. We'll commence with Item 1 of the Agenda, Public Comment. Is there anybody present in Carson City that would like to provide Public Comment to the Board of Examiners? Is there anyone present in Las Vegas who would like to provide Public Comment?

Secretary of State: No, Governor.

***2. FOR POSSIBLE ACTION – APPROVAL OF THE OCTOBER 11, 2011 BOARD OF EXAMINERS' MEETING MINUTES**

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: We will move on to Agenda Item No. 2, Approval of the October 11, 2011 Board of Examiners Meeting Minutes. Mr. Secretary, have you had an opportunity to review the minutes?

Secretary of State: Yes, I have, Governor.

Governor: And do you have any changes or deletions?

Secretary of State: No, Governor. With your approval, I move for approval.

Governor: All right. The Secretary has made a motion for approval of the October 11, 2011 Board of Examiners Meeting Minutes. I will second the motion. Is there any discussion or questions on the motion? Hearing none, all in favor of the motion please say aye. Motion passes.

***3. FOR POSSIBLE ACTION – AUTHORITY TO PAY MINING CLAIM REFUNDS**

A. Department of Taxation – \$8,184,269.50

Pursuant to Senate Bill 493, Section 16.7 of the 2011 Legislature, the Department of Taxation must submit mining claim refund requests to the Board of Examiners for approval. The Department is requesting authority to pay 335 refund requests totaling \$8,184,269.50.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Agenda Item No. 3, Authority To Pay Mining Claim Refunds. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Item No. 3, this is the first time this has been before the Board, so I'm going to provide a little bit of background. Assembly Bill 6, Section 47 during the 26 Special Session authorized an additional fee on filings made pursuant to NRS 517.230 for improvements or work performed on mining claims by persons who hold 11 or more claims in the State. What you have before you is pursuant to Senate Bill 493 of the 2011 legislature, is they authorize the ability to either credit or refund to these companies after they've applied through the Department of Taxation. So what you have before you is claims in the amount of \$8,184,269.50. I do want to make a note that we had one of these items, if you look at your package, Attachment B under the third tab. On page five we have one entity, Nevada Mine Properties II, Inc. which is not properly agendaed. That is actually an incorrect name of the payee, so we're gonna pull that from the Agenda.

Governor: Can we redo the math?

Clerk: I have done that. The amount now is \$8,179,929.50.

Governor: Mr. Mohlenkamp, does this track with what the legislature anticipated in terms of payments that were going to be made under this legislation?

Clerk: Governor, we estimated, the Legislative Counsel Bureau and the Budget Division estimated a little over \$18 million in payments that would be due over the biennium, so this is essentially you've got the first half of it coming here.

Governor: I guess another way to ask the question is, obviously we're going to be paying more as time moves on and we have more requests for refunds, are we comfortable that the amount that we have set aside is going to be sufficient to make all those payments?

Clerk: Yes, Governor. This is included in the executive budget, and so we have budgeted for not only these payments but those to come.

Governor: And how does that process work? Do we seek out each of these claimants and pay them, or do they have to come and file an application for refund?

Clerk: Governor, I can give you some basics. They have one year to make a claim, and they have to make a claim to the Department of Taxation. The actual mechanics I'd have to defer to the Department on. And I know there's a representative if you want some details on that.

Governor: What is their deadline to seek a refund?

Clerk: I will have to get the deadline on that from the Department as far as a specific date certain. I believe its one year from the date of the bill, but I'm not certain about that.

Governor: I thought I saw something in the memo here. It says refunds -- I'll answer my own question. Applications for mining fee refunds will be accepted until June 30, 2013. Is that accurate, Mr. Chisel?

William Chisel: That's correct.

Governor: All right. Mr. Secretary, do you have any questions with regard to this Agenda item?

Secretary of State: No.

Governor: Okay. Chair will accept a motion to approve a refund request totaling \$8,179,929.50, and that would be 334 refund requests.

Secretary of State: So moved.

Governor: There is a motion by the Secretary, and I will second the motion. Is there any discussion or questions on the motion? Hearing none, all in favor of the motion please say aye. Motion passes unanimously.

***4. FOR POSSIBLE ACTION – VICTIMS OF CRIME 2012 1ST
QUARTER REPORT AND FY 2012 2ND QUARTER
RECOMMENDATION**

NRS 217.260 requires the Board of Examiners to estimate available revenue and anticipated claim costs each quarter. If revenues are insufficient to pay anticipated claims, the statute directs that claim payments must be reduced proportionately. The Victims of Crime Program Coordinator recommends paying the Priority 1 & 2 claims at 100% and Priority 3 claims at 100% of the approved amount for the 2nd quarter of FY 2012.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Agenda Item No. 4, Victims of Crime 2012 First Quarter Report and Fiscal Year 2012 Second Quarter Recommendation. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before you is a normal Agenda item. This is the recommendation from the Victims of Crime Unit. They are recommending that we pay the full priority three payment level. Looking at the funding levels while State -- well, the typical revenues, that being from fines, restitution, court assessment, et cetera, are coming in lower than we have seen historically. We have received a considerable bump in federal funding. As a result, I believe we can make those payments and still add to the reserves in the amount of about \$868,000.

Governor: Thank you, Mr. Mohlenkamp. My question is this, and we were -- we being the State of Nevada, we're very fortunate to get that federal funding that we did. According to the memo, it's anticipated that that won't happen again and, in fact, it will be less than likely that which we would seek. So my question is, should we be starting to save for that rainy day, or is the money that you described that we're banking sufficient to do that?

Clerk: I'm being advised by staff that they feel that the quarterly adjustment process will give us adequate time to make those adjustments. They're still maintaining to make the full payment on the priority three payment levels, but that we need to watchful of that going forward. And if we need to adjust, there's the ability to adjust the payment levels on an ongoing basis.

Governor: And I do want to take this opportunity to compliment the staff with Victims of Crimes for their efficiencies and how they're performing in terms of making those payments, but at the same time, saving a significant amount of money. Mr. Secretary, do you have any questions?

Secretary of State: No, Governor.

Governor: Does this require action, Mr. Mohlenkamp?

Clerk: Yes, it does, Governor.

Governor: Okay. The chair will accept a motion to approve the action as recommended within Agenda Item No. 4.

Secretary of State: So moved.

Governor: There's a motion by the Secretary. I will second the motion. Any questions or discussion on the motion? Hearing none, all in favor please say aye. Motion passes.

***5. FOR POSSIBLE ACTION – AUTHORIZATION TO CONTRACT WITH A FORMER EMPLOYEE**

A. Office of the Governor – Agency for Nuclear Projects

Pursuant to Assembly Bill 240 of the 2011 Legislature and Chapter 0300 of the State Administrative Manual, the Agency for Nuclear Projects seeks approval to enter into a contract

with the former Acting Executive Director/Planning Division Administrator of the Nevada agency for Nuclear Projects.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Agenda Item No. 5, Authorization to Contract with a Former Employee. It is my understanding, Mr. Mohlenkamp, this is the first of its kind as required by Assembly Bill 240. Please proceed.

Clerk: Thank you, Governor. You're exactly right. This is the first approval for essentially the Board to approve the association of a former employee dealing with a State agency. Before you, you have the request by the Nuclear Projects group to have a contract with a former employee, and they have provided what I consider to be fairly strong rationale. This individual has expertise that is not easy to find, so we don't have any opposition to this. Joseph Strolin and Strolin Consulting LLC is the individual involved here, and so we're in support of this because of the specific nature of the skill set needed.

Governor: Mr. Halstead, are you present?

Robert Halstead: Yes, Governor. Good morning, Governor.

Governor: Good morning.

Robert Halstead: Staff members.

Governor: Mr. Halstead, if you would and Ms. Adams, Marta Adams is here as well from the Attorney's General's office, if you would perhaps provide a more detailed background with regard to the nature of this association.

Robert Halstead: Well, first let me say, Governor, that, you know, given the budget situation, I'm sure that any manager or director in State service hates to come and ask for any kind of an exception, and yet we have a unique situation here which requires the services of a truly unique individual in a situation where we face a serious resumption of the controversy over Yucca Mountain coming in January and February, partly because of the timing of the Bipartisan Blue Ribbon Commission Report which will be out at the end of January, and partly because of last week's federal court action which has set a briefing and hearing schedule for the State of Washington and South Carolina efforts to reopen the licensing process. Under these circumstances, I very much need the kind of work that Mr. Strolin can provide, as he provided formerly when he was the planning administrator. And we're lucky that in this case we have an individual who can provide these services since we no longer have the budget for the planning administrator position which was eliminated. We're able to get the services that we need for approximately a savings of between 75 and \$100,000. Again, I understand the intent of the legislature to set a high bar for the approval of these types of exceptional requests. We have a

situation where we have an extreme need. We have an individual with unique capabilities and experience, and it will help us live within a difficult budget.

Governor: Thank you very much. And just a little more specificity with regard to what his services mean, what will we be getting, will the State be getting through this -- via this contract.

Robert Halstead: Well, Governor, there are some general things that this position does to assist the executive director, and that's generally in fulfilling our responsibilities to the Commission with preparing reports, preparing for meetings and reviewing documents. Then there are some duties that are more specific to this position, for example, duties that have to do with contract administration in the areas of impact assessment and transportation. There are duties that are specific to the agreement and principle activities regarding the Nevada nuclear security site. I keep wanting to say Nevada test site. I'll have to train myself after many years to get the nomenclature right. And in particular, there are a range of duties that have to do with interactions with other agencies, particularly the agencies like DEP, Emergency Management, the agencies that have regulatory authority in nuclear areas. And then there is another range of activities that have to do with dealings with the Western Governors Association and the Western Interstate Energy Board. These are duties that for a new person to learn these duties certainly would require three to six months of training, and yet that person, even if they were trained up, would not bring the advantage that Mr. Strolin brings because he has the established personal relationships with those agencies, with the people in other states. And while this is not set forward in the task, Mr. Strolin also very importantly has ties with the local governments and county governments in Nevada, which is an important, but somewhat unwritten part of that job.

Governor: One final question, and you eluded to that in your introductory remarks, but you characterized the need for this because of the serious resumption of Yucca Mountain issues. Some are maybe under the impression that it's counter to that, that this is winding down. Why do you -- I know you could probably spend an hour talking about the Blue Ribbon Report and the federal court action, but if you could briefly discuss why you characterize this as a serious resumption of the Yucca Mountain Project.

Robert Halstead: Well, first let me say that I believe, and I've been an observer of this process for this entire 23 years, that we are in the best position we have been in since the 1987 Nuclear Waste Policy Amendments Act kicked in, which of course put the sole focus on Yucca Mountain as a candidate site for a geologic repository for spent nuclear fuel and high-level waste, which must be isolated from the environment and from human beings for a period somewhere between 10,000 and a million years. And so this is a very, very serious issue that we face. For a variety of reasons, mostly because the Obama administration withdrew the license application through the action that Secretary Chu took soon after he came into office, I think we're in the best position that we are to win this -- that we've been in to win this battle. On the other hand, there are numerous forces that believe that Yucca Mountain should go forward. There are numerous individuals who have a professional and emotional stake in seeing the licensing process resumed. And there is a serious effort in the U.S. House of Representatives to do just that, to force the reopening of the licensing process. There is also a serious effort through the federal courts, through the lawsuits that have been brought by the states of Washington and South Carolina and

a number of associated friends of that position. The next big battles for us occur in January and February, and that's what puts some urgency in my request for this approval of Mr. Strolin's contract. There is no way that anyone else could help us prepare for the events that will occur towards the end of January with the Bipartisan Blue Ribbon Commission Report, and then that will trigger all kinds of Congressional and public debate. And at the same time, just last week we saw the briefing schedule for the federal court case. And it looks like in February we will have hearings based on filings coming up in December. And then we would likely have a decision in the spring before the court recesses for the summer. So on the one hand, I don't want to come before you and say that Yucca Mountain is alive again, but our job is to keep Yucca Mountain dead. And there is a serious effort on the part of a number of parties to resume the licensing process and that's why it's important for Nevada to maintain its vigilance both through the Agency for Nuclear Projects in your office and through the Attorney General's office.

Governor: Thank you very much, Mr. Halstead. Mr. Secretary, do you have any questions?

Secretary of State: No, Governor. I think he did an outstanding job outlining the issues.

Governor: The only other comment I have with regard to this Agenda item, and correct me if I'm wrong, Mr. Mohlenkamp, its process statement is that in a prior Board of Examiners meeting we had had a discussion of putting the authorization to contract as well as the approval of the contract on the same agenda. And it's my understanding that it is the advice of the Attorney General's office that we can't do that, that we have to do that on two separate Agendas; is that accurate?

Clerk: Governor, you're exactly right. On October 19th we received a memorandum from the Attorney General's office providing guidance that in fact it would be not possible under the current laws set up to have the approval of the relationship and the approval of the contract at the same Agenda.

Governor: Thank you. My comment is that I believe that Mr. Halstead has made a compelling argument and statement as to why it's necessary for the State to enter into a contractual relationship with Mr. Strolin. Mr. Secretary, I am prepared to accept a motion to approve the authorization to contract with a former employee, that being Mr. Joseph Strolin.

Secretary of State: So moved, Governor.

Governor: There's a motion by the Secretary of State to approve the request for authorization to contract with a former employee as described in Item 5 of the Agenda. I will second the motion. Is there any discussion or questions on the motion? Hearing none, all in favor of the motion please say aye. Motion passes unanimously. Thank you very much.

Robert Halstead: Thank you, Governor.

***6. FOR POSSIBLE ACTION – APPROVAL TO PAY A CASH SETTLEMENT**

Pursuant to NRS 41.037, the State Board of Examiners may approve, settle or deny any claim or action against the State, any of its agencies or any of its present or former officers, employees, immune contractors or State Legislators.

A. Department of Transportation – Administration – \$25,000,000

The Nevada Department of Transportation (NDOT) is requesting approval to settle two eminent domain lawsuits with Wall Street Nevada, LLC and related persons and entities. Both suits involve the same property, consisting of 7.04 acres of undeveloped land in Las Vegas that is associated with NDOT's Project NEON. This project will make improvements to I-15, U.S. 94, and surface streets to help traffic flow. NDOT and the landowners have been in settlement discussions since 2009 and have now jointly agreed to settle for \$25 million. If the Board approves the settlement, NDOT intends to seek participation of federal funds in the cost to acquire the property. NDOT has contacted the Federal Highway Administration to determine the amount of participation.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Next item on the Agenda is Agenda Item No. 6, Approval to Pay a Cash Settlement with regard to the Department of Transportation. Mr. Mohlenkamp.

Clerk: Thank you, Governor. The Department of Transportation is requesting approval to settle two lawsuits with Wall Street Nevada, LLC. They are asking for payment of \$25 million. Including in your documents is the understanding that they will then turn around and request from the federal government to offset some portion of this \$25 million payment which would then be returned to the Highway Fund if and when those amounts are received. We do not currently have an estimate of how much would be received from the federal government. I believe the Department is here to provide testimony.

Governor: Thank you. I do see Mr. Gallagher here. Mr. Gallagher.

Dennis Gallagher: Good morning, Governor, Mr. Secretary. For the record, Dennis Gallagher, Chief Deputy Attorney General, Chief Counsel for NDOT. To my left is Michael Chapman from the Chapman Law Firm, outside law firm, that's been representing that State in these two cases for which this settlement is being recommended.

Governor: Thank you, Mr. Gallagher. Good morning, Mr. Chapman. I haven't seen you in a while. It's always a pleasure.

Michael Chapman: Thank you, Governor.

Governor: Would you set more of a background in terms of the settlement and the litigation, please?

Michael Chapman: Yes, your honor. Force of habit, sorry. The case goes back a few years to about 2004. Neon has been in the planning stages for quite a few years. And in 2005 the Wall Street landowners negotiated for this particular piece of property, seven acres near Charleston Boulevard. They bought the property in 2006, purchased it at that point in time for \$21.4 million, and demolished some buildings on the property, made some other expenses with respect to the property such as getting streets vacated, making some development plans and so on. In 2009 they filed an inverse condemnation lawsuit against the Department alleging that actions by the city of Las Vegas, in conjunction with NDOT, namely planning activities such as holding public meetings and other announcements, actions by the city of condemning some property along the path for the Martin Luther King connector, not the Neon property but other properties, and that all of these actions taken in concert together had essentially deprived the landowners of their use and benefit and ownership essentially, even though title had not transferred for their property. The State takes the opposite view that that was not a taking. Nevertheless, there is some exposure to the State from the claim. The Attorney General's office, prior to our office becoming involved, had a extensive settlement discussion with the landowners. The landowners and the State together decided that let's just get an appraisal and find out what the property's worth, because in the end the State does want the property for the project. That appraisal came in at \$21.4 million as well, coincidentally pretty close to the purchase price originally and that was using a 2009 date of value. The case did not settle. The demands were around \$29 million at that point in time. Our office was hired shortly thereafter the Complaint was answered and the landowners filed a motion for partial summary judgment to set a date that the taking actually occurred. The judge in the case decided that it would be a 2007 date of value, which would actually have the effect of pushing the property value back closer to the top of the real estate bubble. More negotiations were had and they were quite hard fought negotiations. But I always think that these negotiations are useful to have early in a case rather than later because a lot of times your best bargains on behalf of the taxpayers can be made early in the process as opposed to a week before the trial. We were able to negotiate, you know, by then the demand had gone up to 31, \$35 million. We were able to negotiate it down to \$25 million. And considering all of the risks of perhaps \$100 million dollars in exposure, compared to the ability to settle the case now for \$25 million, we decided it was worthwhile to present that the Department for their consideration of all of the pros and the cons which we laid out very carefully for them. And it was decided that consistent with the federal statutes, that this made a -- in terms of a business decision, a prudent, wise and good settlement with respect to weighing the benefits and the burdens of going forward.

Governor: Thank you. Very thorough explanation. When you say that the District Court ruled that the value would be based on its value in 2006, which would be that \$100 million figure, or could be that \$100 million figure that you talked about for the value of the property?

Michael Chapman: Well, according to the landowners it could. You know, our evaluation was no, but we do know in fact that in 2006 they paid \$21.4 million for the property. In 2007, which

was the date the judge selected, the property values were rising up until that time. They began to fall -- housing values began to fall in July of 2006. That was the peak in Las Vegas and the beginning of the crisis that we all know too well today. The values on some properties were still rising as of 2007, and the bottom basically fell out when the recession began in December of 2007. So I guess that's a long way of saying yes.

Governor: And that issue was decided by the District Court. Is that issue before the Nevada Supreme Court as we speak?

Michael Chapman: No, it is not, Governor. When the parties entered into kind of the third or fourth round of settlement negotiations, we were in the process of filing motions for reconsideration based on what we think is incorrect legal analysis by the District Court judge. By the time that worked its way to a hearing, and shortly before, the parties arrived at the \$25 million settlement, and it was decided to present that to the clients on both sides for their consideration. The District Judge then stayed the inverse condemnation action and has not ruled on any of these motions pending the approval of the settlement by the Wall Street folks and by the Board of Examiners.

Governor: And if we reach this settlement, does that buy eternal peace in terms of litigation associated with this piece of property? I probably shouldn't use that term, but how about if I change that and use, do we have certainty now with regard to that property?

Michael Chapman: We have built as best as we can closure into the settlement agreement by doing a couple of things. One is a full release obviously from the Wall Street people. The other is a direct condemnation action for the same land. And as part of that, we have named everyone who needs to be named according to statute. We have named some other folks who don't need to be named according to statute, but we thought it would just be prudent in order to extra, extra clarify the title. In addition to that, the statutes provide for notice and service by publication of anybody unknown and not entitled who might have a claim to the interest of the property. That has all been done and, in fact, is ongoing at this time. The publication began about two or three weeks ago. The Complaint was filed on October the 20th. Everyone has been served now. We're beginning to get in these things. So we should be able to ferret out any interest before the money is paid, and that's the way the settlement is structured.

Governor: I think we approved that in our last Board of Transportation meeting if my recollection serves me correctly. And last question, you said the settlement amount is 25 million. We may have some participation or contribution from the federal government. Is there local government contribution as well in this settlement?

Michael Chapman: There will be a contribution from the City of Las Vegas which is still being worked out.

Governor: Thank you very much, Mr. Chapman. Mr. Secretary, do you have any questions with regard to this Agenda item?

Secretary of State: Just a couple. How many other potential similar lawsuits are out there related to Project Neon? And what is the overall potential exposure to the State related to these issues?

Michael Chapman: There are some similar lawsuits. We don't know exactly how many because they have not been filed yet. Whenever you settle a case, there's always a risk that a copy cat lawsuit will present itself, that this will be attempted to be used as precedential value to settle the next case. That's a risk, we acknowledge that. We have tried to take care of that in the settlement agreement by saying that this is not the State's opinion as to the value of the land, and that this settlement will not be admissible in another court. And so to the extent that we can take care of that, I think we have. Will somebody else file the same thing? Perhaps. One of the things we are recommending is that the Department file its cases as soon as it is ready to do so rather than waiting for inverse condemnation cases, simply because the direct cases establish the date of value by statute and they are easier to defend than the inverses which are pretty tough cases.

Secretary of State: So is this then a strategic legal decision to try to settle this matter when we were handed an adverse ruling on when the takings occurred that would put us in a better position to perhaps litigate this issue before any, as you referred to, copycat lawsuits that may arise in the future?

Michael Chapman: More than that, it is a decision which makes financial sense. If we are getting appraisals of \$21 million or so as of 2009 values, and these dates of value being somewhat in flux in imminent domain cases, we are probably paying around where we would end up irrespective of the District Court's decision. Was the settlement discussions accelerated and moved forward by the decision? I would have to say yes, that that was a helpful catalyst as well.

Secretary of State: But just so I understand, I mean, this was a strategic legal decision as I understand it to not appeal the order of the District Court in terms of the finding as to when the takings occurred as opposed to trying to settle it?

Michael Chapman: It is a recommendation that is being submitted for the consideration of the DOT and this particular Board. We have filed motions for reconsideration to the District Court, but I suppose it would be a strategic decision if the Board decided to press forward and get a ruling from the judge on the reconsideration, and then a ruling from the Nevada Supreme Court on the point. That is the other possibility. And of course the risk of accepting the settlement is that you do not have that ruling to rely on and perhaps a clear answer from the Nevada Supreme Court for future cases.

Secretary of State: But just so I'm clear, you weighed both of those options and it is your recommendation that this settlement is in the best interest of the State?

Michael Chapman: This is the best settlement that we could negotiate at the time. And weighing all of the risks with the benefits, we think it does tilt in favor of recommending a

settlement, and so that is why we have presented it to the client, this Board, and also the folks at NDOT for their consideration.

Secretary of State: Thank you, Governor.

Governor: Mr. Chapman, just a follow up. This number 25 million is essentially very close to what the likely minimum amount we'd get if we were to proceed to trial?

Michael Chapman: In my gut reaction, because whenever you do these settlements, you know, it's like the song says, you gotta know when to hold 'em and know when to fold 'em. You never quite know what the opportunity cost is that you're giving up. My gut reaction is yes, and the reason for that is a couple of different things. Even if Judge Corey reversed himself on the inverse condemnation case, there is still a pre-condemnation damages claim which is another thing which is allowed by our Supreme Court. That is a jury issue. Interest runs on any amount of money that would be paid by the landowner. On inverses cases they are allowed their attorney fees and their costs and so on. And according to Pistol, the new Constitutional amendments by referendum on eminent domain, the government is no longer allowed to receive attorney's fees from the property owner in a case that the government might win. So it would probably come close to that number anyway is a gut feeling that I have.

Governor: Thank you. I have no further questions. Mr. Secretary, are you prepared to make a motion with regard to Agenda Item No. 6?

Secretary of State: Yes, Governor. I'll move for approval of the Agenda Item No. 6, recommendation for approval of a cash settlement in the amount of \$25 million.

Governor: Okay. The Secretary has made a motion to approve a cash settlement as described in Item 6 of the Agenda in the amount of \$25 million. I will second the motion. Is there any discussion or questions on the motion? Hearing none, all in favor of the motion please say aye. Motion passes. Thank you, gentlemen.

Michael Chapman: Thank you, Governor. Thank you, Mr. Secretary.

***7. FOR POSSIBLE ACTION – STATE VEHICLE PURCHASE**

Pursuant to NRS 334.010, no automobile may be purchased by any department, office, bureau, officer or employee of the State without prior written consent of the State Board of Examiners.

AGENCY NAME	# OF VEHICLES	NOT TO EXCEED:
Department of Administration – Enterprise IT Services – Network Transport Services	1	\$39,236
Department of Public Safety – Highway Patrol	123	\$5,331,325
Department of Public Safety – Highway Patrol – Highway Safety Grants Account	1	\$23,401

Total:		\$5,393,962
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Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State **Seconded By:** Governor **Vote:** 2-0

Comments:

Governor: Mr. Mohlenkamp, Agenda Item No. 7.

Clerk: Thank you, Governor. Before you, you have three separate requests for State vehicle purchases, Department of Administration, Enterprise IT Services, for one vehicle; Department of Public Safety Highway Patrol, 123 vehicles; and the Department of Public Safety, the Highway Safety Grants Account, one vehicle. All of these vehicle purchases are in the authorized legislative budget. And I believe there are representatives here if you have any questions.

Governor: I have no questions. Mr. Secretary?

Secretary of State: No, Governor.

Governor: Mr. Secretary, are you prepared to make a motion with regard to Agenda Item No. 7?

Secretary of State: Move for approval of Agenda Item No. 7 of three State vehicle purchases.

Governor: Thank you, Mr. Secretary. The Secretary has made a motion to approve Agenda Item No. 7, State Vehicle Purchase in the total amount of \$5,393.962. I'll second the motion. Are there any questions or discussion on the motion? Hearing none, all in favor of the motion please say aye. Motion passes.

***8. FOR POSSIBLE ACTION – LEASES**

Three statewide leases were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State **Seconded By:** Governor **Vote:** 2-0

Comments:

Governor: Agenda Item No. 8, Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before you are three separate leases. And I wanted to point out on the second item, which is Department of Education, Nevada Public Charter School Authority, it doesn't show it on your Agenda, but I wanted to make sure you understood that over the biennium there was a \$9,123 savings. This is a 19 percent reduction over the rate that was previously being paid, so I want to point that out and kudos to the agency on that.

Governor: Thank you, Mr. Mohlenkamp. I have no questions with regard to the proposed leases. Mr. Secretary?

Secretary of State: I'll move for approval of Agenda Item No. 8, the three leases.

Governor: The Secretary has made a motion for approval of the three leases described in Agenda Item No. 8. I'll second the motion. Are there any questions or further discussion on the motion? Hearing none, all in favor of the motion please say aye. Motion passes.

***9. FOR POSSIBLE ACTION – CONTRACTS**

Sixty-two independent contracts were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Agenda Item No. 9, Contracts. Mr. Mohlenkamp.

Clerk: Thank you, Governor. Before the Board are 62 contracts. I do want to make a note to the Board that Contract No. 62 has been withdrawn, leaving 61 contracts to be considered.

Governor: Thank you. I have questions regarding Agenda Item No. 4, 5 through 8, No. 11, No. 15 and 16, and No. 25. And I know there are a lot of associated contracts with that with the various counties, No. 26, No. 37, No. 44, No. 51, No. 53, No. 59 and No. 61. Mr. Secretary, do you have any contracts that you wanted to hold out for questions?

Secretary of State: No, Governor.

Governor: We'll then begin with Contract No. 4. Good morning, Sir. Please identify yourself for the record, sir.

Kent Robison: I'm independent counsel for UNR, Milton Glick and Carrie in the litigation. My name is Kent Robison and I'm here with Joe Ward from the University of Nevada's counsel.

Joe Ward: Thank you. For the record, Joe Ward for University of Nevada Reno.

Governor: Good morning, Mr. Ward. It's good to see you. How long have you been with University now?

Joe Ward: A little over a year, a year and three months.

Governor: Now, my question isn't really with the proprietary of the contract. I know this is a longstanding contract with the Robison, Belaustegui, Sharp firm representing the university

system. One question I had is, we have paid out \$320,000. Is there a reason, or does the university participate in the costs of those legal fees?

Joe Ward: I understand that there has been recently some awards that have gone up to the Nevada Supreme Court with respect to attorney's fees. As far as the university itself participating in those costs, I don't believe so. I believe that this is through the State Contingency Fund that we get the compensation to reimburse the Robison firm.

Governor: Is that a -- and I know we worked together, Mr. Ward, when I was the Attorney General. But historically has the State always stepped in to pay legal fees on behalf of the university when the university doesn't, within its own legal department, have the ability to defend those lawsuits?

Joe Ward: My understanding is that historically, yes. The Nevada System of Higher Education is a State entity and there are two universities, the University of Nevada, Las Vegas, the University of Nevada, Reno, and about six community colleges that make up this Nevada System of Higher Education, a State entity. There are three attorneys at the University of Nevada, Reno. And I understand at the time, and I wasn't there, that this litigation involving Ms. Batra (sp?) commenced, there were two lawsuits brought. Those cases were consolidated, 19 claims resulted, and the same claims are also part of the Whistle Blower case, a third case. But to answer the question, I believe that being a State entity, yes. The State Contingency Fund is available for the State entity.

Governor: Thank you, Mr. Ward. Mr. Robison, how are we doing? I know this is a longstanding litigation with multiple defendants and multiple claims. Are we approaching trial or where are we procedurally?

Kent Robison: We're doing well. We prevailed on motions for summary judgment in 2009 on all claims that the plaintiff brought. We made a motion for attorney's fees. In the interim, the plaintiff challenged, the judge raised several procedural issues that got quite expensive. We prevailed on a motion for fees. We were awarded \$111,000 in fees. Both of the primary cases went up on appeal as did the award of attorney's fees. Later that summer we had some disturbing activity by the plaintiff. We obtained a temporary restraining order, later an injunction. That went up on appeal. A week ago Monday, August 31 we argued all four of those matters before the Nevada Supreme Court. They're under submission. We feel pretty good about them.

Governor: Do you -- and I know this isn't probably a question that can be answered. Do you anticipate a decision by the Court in the near future?

Kent Robison: Governor, I do, hopefully within the next four weeks. As you probably know, one of three things can occur. A remand for further proceedings, a total reversal which would put us up on a trial calendar, but the work is done for the trial. And if we get complete affirmation, I expect that the plaintiff will move for reconsideration and then probably consideration. So I do expect a little bit more activity in the Supreme Court and hopefully no more activity in the District Court.

Governor: Thank you, Mr. Robison.

Kent Robison: Thank you.

Governor: Mr. Monroe, I understand that you are here and may be able to answer that question I have with regard to the State's obligation to pay legal fees in this matter.

Mr. Monroe: Good morning. For the record, the State's obligation, this is a request made by a State entity, and this is the normal process for paying these types of fees.

Governor: Thank you, Mr. Monroe. Mr. Secretary, do you have any questions with regard to Agenda Item No. 4?

Secretary of State: No, Governor.

Governor: Thank you very much. Are there representatives here from the Treasurer's office?

Mark Winebarger: Good morning, Governor.

Governor: Good morning. Could you just identify yourself for the record?

Mark Winebarger: Mark Winebarger, Chief Deputy Treasurer.

Governor: Mr. Winebarger, my question isn't, again, with regard to the propriety of these contracts. I know they're important and necessary. I just was interested more mechanically how these work. Do these entities make our investment decisions with regard to the LGIP?

Mark Winebarger: Governor, this is a -- the State contracts with these particular four vendors or investment managers. And then after we sign these contracts, then it's sort of like a good of the State contract where local governments can then individually select one of these four investment managers depending on what their needs are and how they want to design their portfolio, and they work directly with those local governments. We review and make sure everything is up to speed and reconciling and the fees are appropriate.

Governor: And we're approving a -- this is an up to \$5 million, not for \$5 million. And I appreciate your follow up because we have only -- I shouldn't say only. We have expended annual fees to these entities in the amount of \$169,747 and \$264,502. Why is the 5 million figure so high comparable to these amounts that...

Mark Winebarger: Governor, we don't want to come back to the Board of Examiners and request contract amendments in the instance that a local government would add additional or get more local governments adding to this investment portfolios. We're tied very closely to the base point fee, so the max not to exceed is basically a function of the purchasing documents and the

contracts that are required. It's just one of those things that we do when we have a fixed rate applied to a variable balance that could be greatly increased.

Governor: And what would be an action that would get us up to that \$5 million?

Mark Winebarger: Right now approximately \$400 million is across all these portfolios. It would take, I don't know, I didn't do the math, seven, eight, nine times that amount to go from, you know, \$200,000 a year for Atlantic Capital to over a million to reach those top limits.

Governor: In other words, would they be making more investment decisions, which would cause that type of expenditure?

Mark Winebarger: These fees are based on the balance of the portfolios. So if for instance Clark County went from I'm guessing \$125 million to \$500 million, then those fees would be exponentially increased based on the value of the portfolio and the agreed upon fees.

Governor: Thank you very much. Very helpful. Mr. Secretary, do you have any questions with regard to these Agenda items?

Secretary of State: No, Governor.

Governor: Thank you. Contract No. 11. Good morning. If you'd just identify yourselves for the record, please.

Shelley Blotter: Certainly. Shelley Blotter, Deputy Administrator for the Division of Human Resource Management. And with me is Carrie Hughes. She's a Personnel Analyst for the Division as well.

Governor: Thank you. Again, I'm not going to question the need for this contract. It just piqued my interest because I think it -- I don't know how well known it is, perhaps it is, that the State provides these counseling services to all State employees. And I do appreciate the follow-up memo that you provided. We're spending essentially \$350,000 for this. This was something that we used to do internally, and now we are outsourcing that to this entity in Dove Canyon, California. I don't know where Dove Canyon is. But in any event, the utilization in 2009 was 976 of 18,000 State employees; is that accurate?

Shelley Blotter: That's correct. And you'll notice that we had declining utilization. And as I explained, we had two State employees performing these services in 2007, and so they were long-term employees. Our State employees had trust in them. There were relationships built up in the community. And then we had turnover. And so there was time of vacancy and we didn't have a person in Las Vegas. Once that position was filled, then those relationships had to be built. And then that individual ended up leaving. And finally the supervisor at that unit retired, and so this was a great opportunity to not harm a current employee. We were able to provide a much more robust service to employees, so I think this is one of the shining bright spots and good news for employees.

Governor: Thank you. An opportunity to talk about that is I'm also interested, but if I'm a State employee who's in need of these services, we have Psych Corporation out of California, do they - where do I go if I'm a State employee and I'm seeking these types of services both in Carson City, Reno and Las Vegas?

Shelley Blotter: I'm gonna defer to Carrie Hughes. She's been working directly with the vendor and she can talk about the implementation.

Carrie Hughes: For the record, Carrie Hughes. The services will be offered -- primary access will be through a toll-free number, also online access that will go into a dedicated call service for State of Nevada employees. They will have access at that point to either a master's level or doctoral level counselor on the phone. At that point an assessment will be made and a referral to resources, which in many circumstances will be a referral back to subcontracted counselors within the own employee's community that they can go and see and develop a relationship with.

Governor: That's fantastic. So we will have Ph.D. level counselors or M.D.?

Shelley Blotter: Governor, I believe it was master's level.

Governor: Okay. Or master's level who will make that initial assessment, and then there will be referral to a local provider, whereas before we had two or three people within State government to provide that service.

Shelley Blotter: And just for clarification, they were providing that same type of referral, so long-term counseling was always handled in the communities, but there will be a larger provider network. And not only including marital or mental health counseling or alcohol counseling, you know, that type of thing, but also financial and also resources related to child care and elder care and so much more expanded network of providers that they'll have contact with.

Governor: My last question is there was nobody in Nevada that could provide this service?

Shelley Blotter: We did interview quite a number of vendors. We had one vendor that was primarily located in Nevada and they just did not perform as well in the evaluation process. We were hoping that we could provide, you know, business to a Nevada employer and a Nevada business, but unfortunately they did not come out on top.

Governor: Thank you very much. Congratulations.

Shelley Blotter: Thank you.

Governor: Mr. Secretary, do you have any questions with regard to Contract No. 11?

Secretary of State: No, Governor.

Governor: Thank you again. Next item is No. 15, Commission on Economic Development. Please state your name for the record.

Margene Stenger: Margene Stenger with Economic Development.

Governor: Good morning, Ms. Stenger. And I did receive your memo, the follow-up with regard to this contract. And I'm gonna overuse this word today, but, you know, we get one sentence to describe what this interlocal agreement to provide training for employees of Nevada businesses that have been approved by the Governor's office of Economic Development. And what I'm looking for is just a little more detail as to how that works. Do we have potential companies that are relocating to Nevada that we're providing them with employees via this program, or how does this work mechanically?

Margene Stenger: How it works is the company, they can be a company within Nevada or an outside company that's going to move to Nevada. And the Department of Employment Training and Rehab has money set aside for us in which we can go to them and receive the money and then we pay the university system to conduct training for their employees to create a stronger workforce.

Governor: Do you have a concrete example of how that works right now? Is there a current employer that needed a certain kind of employee and we provided that type of training? What kind of employees are we training as a result of this contract?

Margene Stenger: I don't have one, a for instance, but it goes through the commission. The commission has to make sure that the wages are met, that the employer is going to be paying a specific wage and there's also a match brought up from the employer. And then we either go to the Nevada Industrial and Excellence through the Board of Examiners and they are the trainers that provide statewide. And then Washoe County we use Truckee Meadows Community College.

Governor: So if I'm an employee at a company and I need that specific training and the Economic Development has approved it, I go to one of the community colleges, attend a class and get that specific kind of training, and then the Commission on Economic Development pays that tuition associated with that?

Margene Stenger: Yes.

Governor: Okay. I've got it. Thank you. Mr. Secretary, do you have any questions with regard to Contract No. 15?

Secretary of State: No, Governor.

Governor: All right. Contract No. 25 is between Healthcare Financing and Policy and Carson City. I know there are several contracts within our Agenda. My understanding is that things are progressing well in terms of our agreements with the respective counties throughout the State?

Lynn Carrigan: Yes, sir. In fact, all of the counties have signed the contracts. Pardon me. I'm Lynn Carrigan. I'm Administrative Services Officer for the Division of Healthcare Financing and Policy. All of the counties have actually signed their contracts and we'll be bringing the additional contracts before the Board of Examiners in future months.

Governor: So congratulations in order. We've signed up all 17?

Lynn Carrigan: Yes, sir.

Governor: Wow. All right.

Clerk: Governor, I just want to clarify. This is a contract for county match is it; is that correct?

Governor: And I may, you know, there are several...

Lynn Carrigan: Yes, yes, it is. It's a county-match contract.

Clerk: Okay. But there are some other items we've been dealing with the diversion of some services to the county and that's a separate item; is that correct?

Lynn Carrigan: Yes, it is.

Clerk: Okay. I just wanted to make sure we're clear on that.

Lynn Carrigan: This is exclusively for the county indigent program for Nevada Medicaid.

Governor: But with regard to that issue, everything is completed; is that correct?

Lynn Carrigan: Yes, sir. It's just dotting the I's and crossing the T's at this point.

Governor: Thank you very much. Mr. Secretary, do you have any questions with regard to these items?

Secretary of State: No, Governor.

Governor: Next item is Contract No. 37.

Phil Weyrick: Good morning, Governor, members of the Board. For the record, Phil Weyrick, Administrative Services Officer for the Health Division. To my left is Luana Ritch who is the Bureau Chief for the Bureau of Statistics, Planning, Epidemiology and Response.

Governor: Thank you very much. And I do appreciate the follow-up memo that essentially explains the nature of this contract, because when I first looked at it, \$727,000 sounded like a lot

of money, and I wasn't -- I didn't know what the utilization was, but I was surprised to see that we have 3,767 average calls per month with regard to poison control; is that accurate?

Phil Weyrick: Yes, sir, that is accurate. And you should probably also know for the record that this contract is actually supplemented by HRSA funds that are given directly to the Poison Control Center. So we're actually paying a reduced rate because HRSA is funding some of this effort directly.

Governor: Pardon my ignorance, but what is HRSA?

Luana Ritch: Governor, HRSA is the Health Resources Services Administration. It's part of the Federal Department of Health and Human Services. For the record, this is Luana Ritch.

Governor: And I'll keep asking this Nevada question over and over again, but, you know, I see that perhaps the call center is in Colorado; is that correct?

Luana Ritch: Governor, that's correct. It's located in Denver, Colorado. It is an agency -- it has a quasi-governmental agency relationship with the State of Colorado.

Governor: And there's not a similar entity that could perhaps provide this service in Nevada; is that correct?

Luana Ritch: For the record, this is Luana Ritch. Governor, no. We did take this out to RFP. However, the trend in poison control centers because of the expertise needed to be able to handle these type of calls, we're seeing a regionalization across the country, and so states with relatively small numbers such as Nevada's partner or plug into regional poison control centers. We did not have any bidders on our RFP from any Nevada providers. The types of specialists and expertise that is there isn't something that we find in Nevada.

Governor: I was surprised to learn you even provide or they provide advice or service with regard to animals as well; is that accurate?

Luana Ritch: For the record, Luana Ritch. Yes, Governor. They provide information regarding -- to the public, and those calls are calls that are often calls that my dog ate something or got into an over-the-counter medication or that kind of thing.

Governor: And you promote this number. Where do I find this number to make that phone call?

Luana Ritch: Again, Luana Ritch. The number is the National Poison Control hotline number and it can be found online, in the front of your phone book and in various other places around community directories, all of those kinds of places.

Governor: Thank you very much. That was very informative. Appreciate it. Mr. Secretary, do you have any questions with regard to Contract No. 37?

Secretary of State: No, Governor.

Governor: Move on to Contract No. 44. Mr. Cox, do I see you there in Las Vegas?

Greg Cox: Yes, Governor. This is Greg Cox, Director of Department of Corrections.

Governor: Mr. Cox, will you provide more background with regard to this contract? And I understand that it is a grant.

Greg Cox: Correct, Governor. The grant we applied for the Department of Corrections to federal funds from the Department of Justice basically referred to as a second chance grant. This contract is being funded with federal funds.

Governor: So you went out and got this grant. Was this a competitive process?

Greg Cox: Correct.

Governor: Well, congratulations are in order, Mr. Cox. Have you provided a service like this previously?

Greg Cox: Yes, we did, Governor, through another community organization. This one was somewhat different. We have 200 inmates, a statewide program with 70 violent, 30 sex offenders and 100 non-violent offenders in this program. It's basically done within 90 days of release. This enhances our current programs that we provide through the Department (inaudible) throughout the State. The program basically focuses on life skills, family reunification, substance abuse, mental health counseling and some job development services along with an individual reentry plan.

Governor: Do you have -- how do you measure the success of this program?

Greg Cox: Well, interestingly enough, we did put some performance measures in it and some discussion with (inaudible) concerning the processes. We have a monthly and a quarterly report that's required. We can hold back ten percent of the funding for the program if they're not performing.

Governor: Thank you, Mr. Cox. And I believe there was another contract while we have you here, No. 61.

Greg Cox: Again, Governor, Greg Cox, Director of Department of Corrections. Contract 61 along with Workforce Connections and DETR is what we refer to as the Pride Program. Basically it again supports prerelease inmates through our Casa Grande transitional housing center in Las Vegas. It is a statewide program whereas we identify inmates throughout the Department to bring to Vegas to our transitional housing center. It encompasses 270 inmates over the term of the contract. It focuses on basically job vocational training with different

providers such as a company known as Alpine Steel in Vegas, Truckee Meadows Community College and then Apex, which is an inventory control warehouse basically system, and also through the College of Southern Nevada, CSN, down here. We identify these inmates throughout the State and then work with the employees from Pride.

Governor: And how do you determine which inmates are eligible for that program?

Greg Cox: We basically look at the scope of, you know, what we believe this program can provide individually to that inmate in regards to identifying what needs they have, vocational training, a course in regards to, you know, their community college whether they are of course here in Vegas, where they're gonna live after leaving our system and after leaving our supervision.

Governor: Thank you. I don't know if you ladies wanted to identify yourselves or -- all right. Thank you. Mr. Secretary, did you have any questions with regard to those two contracts?

Secretary of State: No, Governor.

Governor: Okay. All right. I missed a big one. What was that? Here it is, No. 26. They thought they got lucky, but I just missed it or went over the top of it.

Mike Torvinen: I'll let them know. Thank you, Governor. Mike Torvinen with the Department of Health and Human Services.

Governor: Mr. Torvinen, are you in a position to answer the questions with regard to this Agenda item?

Mike Torvinen: It depends on the questions, Governor. I do review all the contracts. I didn't go back and spend a lot of time with this one. I know the amount is large and we had to do some programming changes to even get it into the system. But my recollection when I did review this was it was pretty much in the normal course of business, but it just ended up being a very large amount.

Governor: Yeah, and when you say large amount, we're extending a contract in the sum of -- for this extension alone is \$405,636,327. That is a lot of money. I had asked some questions when I was doing some review with regard to how do we measure how well this contractor is performing. And I don't know if you have any information about that.

Mike Torvinen: Thank you, Governor. I don't. I I'm not sure I was even privy to that follow-up request, but I know the Division of Healthcare Financing and Policy has a lot of procedures in place to ensure that we're only paying for services that we're getting. And the quality of those services are also monitored on a regular basis.

Governor: So is this \$405 million an up to amount?

Mike Torvinen: Yes, Governor. It's a projection on the need based on historical service levels that have been provided. And I'm pretty rigorous in my requests for the staff to quantify and explain and document their estimated amounts, so they did that as a normal course of business through this process, and their projections would take it up to that amount, yes. It's not guaranteed that we'll spend that much. And a lot of times I encourage a little bit of rounding in that estimate I guess just to make sure that, again, we're within the ballpark, but we have some authority to -- that conditions might change and increase that estimate.

Governor: And the prior amendment was \$382,331,850. Did we spend all that? Or did we save some money beneath that cap?

Mike Torvinen: I wouldn't be able to answer that question without going back and taking a look at the expenditures -- the specific expenditures that have taken place.

Governor: And I had also asked, you know, this is a big amount of money and it's a very important issue for the State. Why not put it out to an RFP to see if there's another entity that might be interested in performing this service?

Mike Torvinen: If I'm not mistaken, I think we're headed down that road now, and that the timing was that we weren't able to get to that point, and we needed the authority right now at this point.

Clerk: Governor, Jeff Mohlenkamp for the record. I also had a discussion with the agency yesterday. And one of the extenuating factors here and the reason they've extended it out for an additional two years is because of the Healthcare Reform Act and some of the uncertainties associated with that. They believe that it would be better to stay where they were for another two years until how that, you know, was gonna be played out, so I think that was part of the consideration as well.

Governor: And that's basically what I have in this memo, and I'm not trying to keep your own department's memo from you, but I'm trying to read it as well. And, you know, I'll back up because I wanted to get my question answered with regard to measurement indicators. I'd asked that question and it said -- one of the responses was Amerigroup had a remarkable 15 out of 18 reportable rates above the 50th percentile, including 9 rates above the 90th percentile. And I apologize that I don't understand what that means.

Mike Torvinen: I'm not sure what it means either, Governor. I'm sorry.

Governor: And, again, I just want to ensure -- these are large amount of monies. It's a huge part of our budget. I want to ensure that we're spending our dollars wisely, that the entity that we're contracting with is performing as well as possible, and at least the indication in this memo is that it is, and that I wanted some more specifics as to why we don't feel there's anyone else capable of doing this given the possible implementation of the Affordable Care Act. I mean, this is no secret and there are other providers in other states. And why is it that only our Healthcare Financing and Policy feels that this is the only entity that can accomplish this?

Mike Torvinen: I think a little history maybe, Governor, is when the managed care option came about in Medicaid, there weren't that many plans out there willing to provide the service, so I think that might be part of how we got to where we are now. Again, as Mr. Mohlenkamp said, as the healthcare reform process takes place, there should be more people, you know, as you know, I think we expect an increase in the number of Medicaid caseloads. And so, again, the more business being out there, the more people might be willing to enter the market.

Governor: And I was going to ask this question, and I don't know if you'll be able to respond to this one. This is only (inaudible). So are we exploring managed care for the ABD population?

Mike Torvinen: We have in the past and I believe we are now. I think those discussions were had at the legislature, so it's an ongoing analysis and consideration.

Governor: I don't mean to pick on you, but that's the answer I've been getting is that we've been exploring this for months, and I'm wondering if that exploration has matured to a decision point.

Mike Torvinen: I'm sorry. I wouldn't be able to give you that specific answer. I apologize, Governor.

Governor: Again, I just am looking for a little more information and I can do that through other means. Mr. Secretary, did you have any questions with regard to Contract No. 26?

Secretary of State: No, Governor.

Governor: Thank you. All right. 51, Division of Water Resources. And just for the benefit of everyone here, this was a contract between Division of Water Resources and Associated Underwater Services for the retention of divers to inspect the outlet works at South Fork Dam. And it's not a large amount. It's \$58,000. I was just curious if there was a Nevada company that could provide the same services. The response that I received was that when the RFP was issued that none of the companies that applied were from Nevada. Next is Contract 53, Environmental Protection and Board of Regents UNR. Did I skip over and is that why everyone laughed when I didn't?

Clerk: Governor, I don't know why representatives aren't here. I'll contact them and get some further information for you.

Governor: My question here is this. I have no problem with the propriety of the contract. I know it's necessary, it's between Environmental Protection and the Board of Regents to provide for water testing services. This is a contract extension. The original contract was for \$9,500. This extension is in the amount of \$470,000. My question was, was this put out for an RFP for bidding by other entities to provide these services?

Clerk: And, Governor, the response to some of these questions I was able to explore that, that since this an interlocal, it's not a competitive bidding process that they would go through, and that's why it shows up as an exempt item on No. 53. As far as the timeliness of it, quite honestly, they couldn't pull it together in time to get the full contract in front of the Board, and there were some delays that they encountered, and that's why you're looking at the two-step process.

Governor: Originally when they did the approval for \$9,500, that was put out there for an RFP and there was competitive bidding for that?

Clerk: In this particular case since it was interlocal, there was no competitive bidding. You know, when you're dealing with another governmental entity, there's no requirement to go forward with the competitive bidding process.

Governor: Would there be interest by other entities to compete for that contract?

Clerk: You know, I'm not certain whether there's interest. I think I'd have to look at two things. One, is it statutorily -- are we allowed to or is it required to go through another governmental entity? I think we'd have to look at that first. And then the second question would be certainly pertinent. I can explore that for you.

Governor: All right. Thank you. And finally with regard to this Agenda Item, No. 59, Employment Security Division and the Board of Regents.

Tamara Nash: Good morning. Tamara Nash, DETR Director's Office.

Governor: My question here is the explanation is that CSN has an apprenticeship program providing training to eligible participants in several fields such as electrical, plumbing and carpentry. Does that program adjust according to demand?

Tamara Nash: That's a good question. I got all sorts of information from the community college and I don't have that, but can I get that answer for you?

Governor: Our largest amount of unemployed in the State are construction workers in these exact fields. And I'm just wondering are we training people in areas where we may not have available positions for them?

Tamara Nash: I would hope that wouldn't be the case, but I'm gonna verify that for you.

Governor: Okay. Thank you. That's my only question. Mr. Secretary, I have no further questions. Contract No. 62 has been withdrawn. The chair will accept a motion for approval of Contracts 1 through 61.

Secretary of State: I'll move for approval of Contracts 1 through 61.

Governor: I will second the motion. Are there any questions or discussion on the motion? All in favor of the motion please say aye. Motion passes.

***10. FOR POSSIBLE ACTION – MASTER SERVICE AGREEMENTS**

Four master service agreements were submitted to the Board for review and approval.

Clerk's Recommendation: I recommend approval.

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: Agenda Item No. 10, Master Service Agreements. I have no questions. Mr. Secretary, do you have any questions regarding Master Service Agreements 1 through 4?

Secretary of State: No, Governor. I'll move for approval of the four Master Service Agreements.

Governor: The secretary has moved for approval of the four Master Service Agreements as described in Agenda Item No. 10. I'll second the motion. Are there any questions or discussion on the motion? Hearing none, all in favor please say aye. Motion passes.

11. BOARD MEMBERS' COMMENTS/PUBLIC COMMENTS

Comments:

Governor: Agenda Item No. 11, Public Comment. Is there any member of the public here in Carson City that would like to provide Public Comment? Is there anyone present in Las Vegas who would like to provide Public Comment?

Secretary of State: Just me and my chief, Governor, (inaudible).

Governor: All right. Mr. Secretary, this also provides for Board member comments. Do you have any comments?

Secretary of State: No, that does it for me. Thank you.

Governor: And nor do I.

***12. FOR POSSIBLE ACTION – ADJOURNMENT**

Motion By: Secretary of State

Seconded By: Governor

Vote: 2-0

Comments:

Governor: We'll move on to Agenda Item No. 12, Adjournment. Mr. Secretary, do you move for adjournment of the Board of Examiner's meeting?

Secretary of State: So moved.

Governor: I'll second the motion. All in favor please say aye. Motion passes. The Board of Examiners meeting is adjourned. Thank you very much ladies and gentlemen.

Respectfully submitted,

JEFF MOHLENKAMP, CLERK

APPROVED:

GOVERNOR BRIAN SANDOVAL, CHAIRMAN

ATTORNEY GENERAL CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER